



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

UNITED PARCEL SERVICE

MAR 05 2019

Mr. Vic Sweetwood
Nufarm Americas, Inc.
11901 South Austin Avenue
Alsip, Illinois 60803

Re: Nufarm Americas, Inc.
Notice of Warning for Distribution of an Unregistered Pesticide
Case File No. FIFRA-04-2019-8503

Dear Mr. Sweetwood:

The U.S. Environmental Protection Agency has obtained evidence indicating that Nufarm Americas, Inc. appears to be in violation of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). On or about November 14, 2018, Expeditors International, the licensed customs broker for Nufarm Americas, Inc., submitted a Notice of Arrival of Pesticides and Devices (NOA) in the U.S. Customs and Border Protection (CBP) Automated Commercial Environment (ACE) system for the importation and shipment of 9 bags of Technical Propachlor 98.5% (unregistered), each weighing 600 kg, that arrived at the Port of Savannah, Georgia under entry number 231-58694773 on or about November 15, 2018. On or about February 11, 2019, Expeditors International, on behalf of Nufarm Americas, Inc., submitted an NOA in the CBP ACE system for the importation and shipment of 56 bags of Technical Propachlor 98.5% (unregistered), each weighing 300 kg, that arrived at the Port of Savannah, Georgia under entry number 231-58857164 on or after February 12, 2019.

Upon review of a copy of the label that is affixed to the bags for both shipments containing the pesticide product Technical Propachlor 98.5% (unregistered), and the entry documentation provided by Nufarm Americas, Inc. through the CBP's ACE system, the EPA determined that the product was misbranded pursuant to Section 2(q)(2)(A) of FIFRA, 7 U.S.C. § 136(q)(2)(A), a requirement to which such unregistered pesticide products are subject to pursuant to Section 17(a)(1) of FIFRA, 7 U.S.C. § 136o(a)(1). Specifically, the product did not have a complete ingredients statement in that it did not state the total percentage by weight of all inert ingredients.

Pursuant to Section 17(a)(1) of FIFRA, 7 U.S.C. § 136o(a)(1) and the interpretation published by the EPA in Pesticide Registration Notice (PRN) 99-1, producers of pesticides in the United States may import unregistered pesticides or devices or active ingredients used in formulating or packaging a pesticide not registered for use in the United States and intended solely for subsequent export to any foreign country, provided that the importer meets certain requirements of FIFRA, including Sections 2(q)(1)(A), (C), (D), (E), (G) and (H), 2(q)(2)(A), (B), (C)(i) and (C)(iii) [Misbranding], 7 [Registration of Establishments], and 8 [Books and Records] of FIFRA, 7 U.S.C. §§ 136(q)(1)(A), (C), (D), (E), (G) and (H), 136(q)(2)(A), (B), (C)(i) and (C)(iii), 136e, and 136f.

By undertaking actions to import the unregistered product for subsequent export, without meeting the requirements of Section 17 of FIFRA, as interpreted by the EPA, Nufarm Americas, Inc. was not authorized to import an unregistered pesticide into the United States or to further distribute, ship or

deliver such unregistered pesticide in the United States. As set forth in FIFRA Section 12(a)(1)(A), 7 U.S.C. § 136j(a)(1)(A), it is unlawful for any person in any State to distribute or sell to any person any pesticide that is not registered under Section 3 of FIFRA.

In response to the apparent violation of FIFRA, the EPA is issuing this Notice of Warning (NOW) to Nufarm Americas, Inc. pursuant to FIFRA Section 9(c)(3), 7 U.S.C. § 136g(c)(3). EPA has determined at this time that a NOW is the appropriate enforcement response for the company's apparent violation of FIFRA, provided that within 30 days of the receipt of this NOW, an authorized official of Nufarm Americas, Inc. submit a signed statement indicating that compliance with FIFRA has been achieved and identifying the actions taken to achieve compliance with the requirements set forth above and submit photographs of the pesticide product label and labeling that are legible and show the product relabeled in compliance with FIFRA. If this statement is not submitted and/or compliance is not achieved, the EPA may initiate a more formal enforcement action which could include the assessment of a civil penalty. Your statement and photographs should be submitted to:

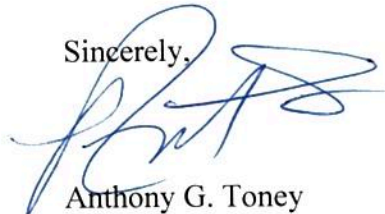
Michael Bauman
Pesticides Section
U.S. EPA Region 4
61 Forsyth Street S.W.
Atlanta, Georgia 30303-8960
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(404) 562-8962

Concurrent with the issuance of this NOW, the EPA will direct CBP, pursuant to 19 CFR § 12.114, that the Technical Propachlor 98.5% (unregistered) in entries 231-58694773 and 231-58857164 be conditionally released for transfer to Nufarm Americas, Inc. facility where the product can be relabeled and brought into compliance with FIFRA. Once compliance is achieved, Nufarm Americas, Inc. should submit new NOAs to the EPA Region 4 Office under the same entry numbers so that the EPA may indicate that the conditions of the release were met, and the product may be released for the purpose of formulation or packaging for subsequent export.

Since your company may be classified as a small business, you may want to review the Information Sheet "U.S. EPA Small Business Resources," which can be found on the internet at: <https://www.epa.gov/sites/production/files/2017-06/documents/smallbusinessinfo.pdf>. This document will provide you with information regarding compliance and rights you may be entitled to under the Small Business Regulatory Enforcement Fairness Act.

If you have any questions about this letter, and/or would like to discuss the above-stated findings by the EPA, or would like a copy of the Information Sheet, please contact Michael Bauman of the EPA Region 4 staff at (404) 562-8962.

Sincerely,



Anthony G. Toney
Chief

Chemical Safety and Enforcement Branch

cc: David Star, EPA Region 5